

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : May 20, 2019

1. Criminal Misc. No. M-54234 of 2018

Mandeep SinghPetitioner

versus

State of Punjab and anotherRespondents

2. Criminal Misc. No. M-61540 of 2018

Rajan @ Shamsheer SinghPetitioner

versus

State of PunjabRespondent

3. Criminal Misc. No. M-5136 of 2019

ThomasPetitioner

versus

State of PunjabRespondent

4. Criminal Misc. No. M-13718 of 2019

Varinder Singh @ BoviPetitioner

versus

State of PunjabRespondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. AS Khosa, Advocate, for petitioner-Mandeep Singh

Mr. K.B.Raheja, Advocate, for petitioner-Rajan @
Shamsher Singh

Mr. Sarju Puri, Advocate, for petitioner-Thomas

Mr. PKS Phoolka, Advocate, for petitioner-Varinder Singh
alias Bovi

Mr. Avtar Singh Sandhu, Addl. AG Punjab for the State
with ASI Lakhwinder Singh, PS Makhu, District Ferozepur

Fateh Deep Singh, J. (Oral)

The aforesaid four applications, two regular bail applications by accused-petitioner Varinder Singh alias Bovi and Thomas and two anticipatory bail applications one by accused-petitioner Mandeep Singh and other by Rajan alias Shamsher Singh having arisen in the same FIR No. 24 dated 17.2.2018 under Sections 307, 341, 427, 354, 506, 379-B, 188, 148, 149, 411 IPC and Sections 25, 27 Arms Act, (Sections 302 and 34 IPC added later on and Sections 307, 341, 354, 506, 379-B, 188, 148, 149, 411 IPC deleted), Police Station Makhu, District Ferozepur, are being taken up and disposed of together by this common order.

The present case was got registered by complainant Gurjant Singh who is engaged with Entertainment Firm. It was during the course of business, the firm was engaged for Orchestra program on 16.2.2018 where they had also taken dancer girls in a car. After the program was over the dancer girls stopped the performance and sat in the car to be taken. It is at this juncture as is alleged that Varinderpal Singh (deceased) who was at the steering wheel was in the process of taking away the dancer girls when accused-petitioner Thomas raised a lalkara exhorting that the girls be brought back on the stage at which accused Gurpreet Singh alias Gur, accused Karanvir Singh @ Ghadi, accused-petitioner Mandeep Singh along with accused Jojo and 5/6 unidentified persons who were subsequently identified as Varinder Singh @ Bovi, Rajan @ Shamsher Singh (on whose eve of wedding the program was organized) along with Navjot Singh, came in front of the car and stopped it who were requested not to do so but these accused at the behest of accused Rajan @ Shamsher Singh @ Chhinna and the latter was imploring his co-accused to bring back the dancer girls. It is stated that while the complainant along with his helper Sonu were talking with the accused, it is alleged, that accused Rajan @ Shamsher @ Chhinna tried to catch hold of one of the dancer girls

and dragged her out of the car and who were asked by the deceased to desist from doing so. At this juncture it is alleged that accused Karanvir Singh @ Ghadi opened the door of the driver side and hit a fire on the right thigh of the deceased with his pistol (pistol not disclosed at the time of arguments) followed by a fire by accused Gurpreet Singh @ Gur who took out his own pistol and fired at the deceased hitting on the right shoulder and thereafter these accused forcibly took out the licensed pistol of the deceased after threatening all of them and vandalized the car and thereafter all these accused fired in the air and also threatened all the members of the troupe and thereafter these persons ran away from the spot. The injured was rushed to the hospital where deceased Varinderpal Singh died leading to the registration of the present case in which accused Thomas was arrested on 24.2.2018. During the course of investigations, the police has dramatically changed the version and attributed one fire to accused Thomas stating that accused Thomas had borrowed the weapon from accused Varinder Singh alias Bovi petitioner and the latter has stolen the weapon from one Ravinder Singh regarding which an FIR was got registered subsequent to this FIR. It is further brought to the notice of the Court that the Deputy Superintendent of Police in his inquiry has held accused Gurpreet

Singh and Mandeep Singh innocent and the Station House Officer of the concerned Police Station has found Rajan @ Shamsheer Singh and Navjeet Singh (owner of the Palace) to be innocent.

Mr. AS Khosa, Advocate, for petitioner-Mandeep Singh;
Mr. K.B.Raheja, Advocate, for petitioner-Rajan @ Shamsheer Singh;
Mr. Sarju Puri, Advocate, for petitioner-Thomas and Mr. PKS Phoolka, Advocate, for petitioner-Varinder Singh alias Bovi have vehemently argued that the ocular version that has come in the FIR has been subsequently found to be incorrect and it has come in the investigations that the injury on the right thigh of the deceased which was attributed to accused-petitioner Karanvir Singh was in fact caused by Gurpreet Singh and the injury caused on the shoulder of the deceased attributed to Gurpreet Singh in fact was caused by accused Thomas and therefore, in view of this sharp contradiction and the fact that the petitioners Varinder Singh @ Bovi and Thomas being in custody for a long time and that the trial is not likely to be concluded in near future necessitated allowing their bail. It is with much vehemence submitted by counsel for petitioners Rajan @ Shamsheer Singh and Mandeep Singh that there is no specific role attributed to these petitioners and accused Rajan @ Shamsheer Singh was busy at his function 300 meters away from the place of

occurrence and both these persons have been summoned with the aid of section 193 Cr.P.C. and therefore, custodial interrogation is not essential and has placed reliance on **Kapil Dev and Anr. Vs State of Punjab and anr., 2015(8) R.C.R. (Criminal) 969.**

Learned State counsel, Mr. Avtar Singh Sandhu, Addl. AG Punjab assisted by ASI Lakhwinder Singh, PS Makhu, District Ferozepur have opposed the bails forcefully on the grounds that all the accused by their common object have fired from fire arms knowingly aware of the consequences and have directly fired the shots aimed at the deceased and their being meeting of minds, in view of the seriousness of the offence and the apprehension of the State that if allowed bail they will influence the witnesses and that custodial interrogation of the accused-petitioners is very much essential, has sought dismissal of the same.

Going though the submissions at the very onset this Court feels deeply perturbed over the shoddy manner of the investigations where every effort is being made to scuttle the same and shift the burden for obvious reason to attain a sinister motivated goal. The insincerity of the Investigating Agency is reflective from the fact that the present FIR has been got registered with Police Station Makhu, Ferozepur and after this FIR to shield one of the

culprits whose weapon has been used in the commission of this offence a device has been fabricated that the weapon has been stolen and subsequent to the present case another FIR of stealing of the pistol has been brought about. Further-more as is there in the report of the Laboratory in fact two weapons were got recovered which was never brought to the notice of the Court in the arguments of the State and the police official had hidden this fact and the report of the Laboratory shows one to be a weapon whose number has been erased and the other is bearing the number were used in the commission of this crime. The claim of the petitioner that accused Rajan @ Shamsheer Singh whose ceremony was being performed was away or no role is attributed to him is falsified from the version of the FIR where specific attribution has been given to him and further-more petitioner-accused Varinder Singh @ Bovi too has been attributed specific role in causing the death of the deceased. More-so the prosecution allegations attribute clear-cut role to accused-petitioner Mandeep Singh as well and the orders passed by the learned court below by the aid of section 193 Cr.P.C. are itself reflective of the same. What to talk of the averments of the State that if allowed bail, the petitioner might stifle the trial, even the officials of the State, the Investigating Officer by their conduct are

trying to stifle the same and rather the apprehension of this Court looms large that dispensation of justice is likely to suffer in all respects. There are serious allegations of rioting at a public place armed with deadly fire arms, threats being meted out to the troupe where the poor dancing girls were being dragged and the fact that such like instances needs to be curbed with a heavy hand as innumerable deaths are being caused by such arrogance and show of money power together with the need to ensure that some semblance of public order and confidence in the system is maintained. No cause for grant of bail to any of these accused-petitioners is made out. Finding no merits, all the bail applications stands declined and dismissed.

May 20, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No